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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,237	10/22/2003	Sehat Sutardja	MP0320	5999
7590 10/03/2005			EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C.			PRENTY, MARK V	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			2822	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/691,237

Applicant(s)

SUTARDJA, SEHAT

Examiner

MARK PRENTY

Art Unit

2822

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 2-4, 6-14, 16-21, 23 and 24.
Claim(s) objected to: _____.
Claim(s) rejected: 5, 15 and 22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

Mark Prenty
Mark V. Prenty
Primary Examiner

Continuation of 3. NOTE: the proposed "overlap(s)" amendments to the specification and to claims 5, 15 and 22 raise new issues (such as the issue of new matter, for example) that would require further consideration and/or search.

The applicant's remarks are incorrect.

First, the applicant's remark: "The Examiner also discussed reasons why the base overlaps the gate in plan view but does not contact or electrically contact the gate," is incorrect. The examiner did NOT discuss "reasons why the base overlaps the gate in plan view." Rather, the examiner, consistent with the final rejection mailed on July 7, 2005, merely indicated that the problematic specification as filed more likely than not discloses that the base is "ALIGNED" with the gate in plan view.

Furthermore, the applicant's remark: "Based on the disclosure as filed, the Examiner immediately concluded that the base overlaps the gate in plan view but does not contact or electrically contact the gate," is incorrect. The examiner did NOT "immediately conclude that the base overlaps the gate in plan view," as evidenced by the Office Actions mailed January 27, 2005 and July 7, 2005, hereby incorporated by reference. On the contrary, the examiner has NEVER concluded from the problematic disclosure as filed that the base overlaps the gate in plan view (indeed, such has never even occurred to the examiner).

Furthermore, the applicant's remark: "the Examiner pointed out during the interview that 'the disclosure does not support any other conclusion,'" is incorrect. The examiner did NOT say that. Again, the examiner merely indicated that the problematic disclosure as filed more likely than not discloses that the base is "ALIGNED" with the gate in plan view.

Furthermore, the applicant's remark: "the Examiner pointed out the fact that FIG. 5 is a plan view and that having the base overlap the gate would be consistent with the plan view, the disclosure and the drawings," is incorrect. In particular, the examiner did NOT point out that "having the base overlap the gate would be consistent with the drawings," as evidenced by the final rejection's objection to the drawings and by the applicant's apparent attempt to file a new drawing Figure that purportedly shows such an overlap (see below). Again, the examiner merely indicated that the problematic specification as filed more likely than not discloses having the base "ALIGNED" with the gate.

Continuation of 13. Other: The applicant's response supposedly included replacement sheets of drawings including an amended Fig. 5 and a new Fig. 5B, but the received "replacement" sheet appears to be a duplicate of the original drawing sheet containing Figs. 4 and 5.